

### REMARKS

Claims 1-46 remain pending in the application. Claims 1 and 22 have been amended to add language to distinguish the fully-consumable pet chew of the invention from the non-edible pet toy of Markham '061 which includes edible treats.

Claims 1, 2, 4-14, 16, 20-22, 24-32, 23 and 38-44 were rejected under 35 USC 103(a) as being obvious over Markham ('061) in view of Markham ('053) in view of McClung and Mauldin further in view of Schaefer. This rejection is respectfully traversed.

The primary reference, Markham '061, is cited for meeting the language of independent Claims 1 and 22 except for the recitation that the recess has a "machined edge". The Examiner argues that it would be obvious to modify Markham '061 using features taught by the secondary references, Markham '053, McClung, Mauldin and Schaefer.

Applicants respectfully submit that the references cited, alone or in combination, do not teach the fully-consumable pet chew or the method of making same, as disclosed and claimed herein, for the reasons set forth below.

Markham '061 teaches a pet toy which includes one or more edible treats to induce an animal to play with said pet toy. The pet toy itself comprises a molded body having an outer surface with one or more recesses for removably holding one or more animal treats. As stated in Markham, col. 2, lines 8-10, the pet owner can replenish the treats as often as necessary to maintain the pet's interest in the toy.

The Markham '061 pet toy is not intended to be fully-consumable. It is not made of rawhide or any other consumable material. It is made of a molded plastic material which may be either rigid or flexible (col. 2, line 15) to hold assorted edible pet treats. Furthermore, Markham '061 discloses in col. 7, lines 45-54, that the interiors of the pet toys are hollow, but may be filled with material enabling the pet toy to float, such as Styrofoam®-like material. Clearly, Markham '061's pet chew is not fully-consumable, unlike the edible pet chew of the invention.

Applicants' pet chew is more in the nature of a food item that is fully-consumable, in contrast

to Markham '061's non-edible pet toy which may be refilled with edible treats to induce an animal to play with it and to keep the animal interested in the toy. The pet toy is capable of repeated play value as it is not destroyed as the pet consumes the treat inserted in the toy.

Not only is Markham '061 not intended to be fully-consumable, the reverse is true. To make the Markham '061 pet toy fully-consumable would defeat the purpose of Markham '061 to provide a refillable, re-usable pet toy which maintains a pet's interest in the toy, as set forth in column 2, lines 14-17:

The toy may be made of molded rigid or flexible material which can accommodate different types of treats. This construction allows the toy to be *used repeatedly* by refilling the recesses with more treats. (emphasis added).

Markham '061's discussion of the deficiencies of the prior art in the Background Art section (col. 1, lines 15-55) of the '061 patent supports this critical distinction. In Col. 1, lines 14-24, Markham '061 points out that a shortcoming of prior art chewable pet chews made of rawhide, rubber and plastic is that the animal loses interest in the toy as the flavor and/or odor becomes less strong and no means are provided for subsequently enhancing the flavor and odor of the toy. Thus, one of Markham '061's objectives is to provide a pet toy which maintains a pet's interest and which can be refilled with flavor and odor enhancing treats.

Markham '061 points out an additional shortcoming of prior art treats in col. 1, lines 25-30. These are toys impregnated with odors or flavorings, which toys are not intended to be consumed by the pet. By mistake, pets may consume these toys entirely due to the stimulation these toys provide to the animal, causing the pet to choke or suffer other health consequences. Markham '061' solves this problem by providing the pet with a more tempting choice: consume the edible treats positioned in recesses in the hollow, molded body of the pet toy rather than the inedible, molded pet toy body.

Markham '061 discloses that the treat is releasably and frictionally held in the recess (col. 4, lines 28-29) in the non-edible pet toy. The pet owner can replenish the treats as often as necessary to maintain the pet's interest in the toy. In column 8, lines 10-12, Markham '061 states that since

the pet toy is not destroyed by the removal of the treats, the toy can be reloaded with additional treats or foods for reuse. Since Markham '061 toy is constructed of molded rigid or flexible material, and not rawhide, it allows the toy to be used repeatedly by refilling the recesses with more treats (column 2, lines 14-17).

In contrast, pets substantially consume, destroy or deform Applicants' rawhide pet chew in order to reach the filling in the receptacles, to the point where the chew would be impossible to refill and re-use. Applicants' pet chew cannot be refilled or reused and is limited to a single use. Once the dog extracts and eats the filling, it will have chewed the pet chew to the point that it cannot be refilled. Thus, the chew of the invention has limited play value, in contrast to Markham's which is refillable and reusable and thereby sustains a pet's interest.

It is neither feasible nor permissible to modify the pet toy of Markham '061 by making Markham's pet toy fully-consumable. To do so would contradict Markham '061 and would produce a pet toy which is not refillable and re-usable, assuming it could even be molded to contain the pet treats disclosed by Markham '061.

The Examiner's statement that the Markham '061 toy can be rawhide, rubber or plastic is an inaccurate reading of the reference. That statement is taken from the "Background Art" section of Markham '061 and refers to prior art chewable pet toys, not to Markham '061's invention.

Thus, Markham '061 is lacking the disclosure of a fully consumable pet chew having receptacles for holding fillings, which edible fillings are fixedly positioned in said receptacles, where the fillings are non-releasable and non-replaceable.

The remaining secondary references do not provide the missing teaching of a fully consumable rawhide chew with edible fillings fixedly, non-releasably and non-replaceably positioned in receptacles formed in the chew. The references are directed to non-edible plastic toys which dispense edible pet treats or to non-related art cited for other reasons. They do not disclose fully consumable, non-refillable food items.

Thus, Markham '053 is a continuation of Markham '061, as discussed above. McClung

teaches a method for a person to interact with a pet comprising throwing the pet a plate on which at least one item, which may be a food item, is releasably mounted. The plate may have different shapes, but in any case, is not consumable. Mauldin discloses a non-consumable animal toy made of a non-toxic plastic. Schaefer discloses a rawhide screw anchor plug and is not directed to animals or dog chews.

Claims 3 and 23 are rejected under 35 U.S.C. 103(a) as being obvious over the references as applied to claim 1 above, and further in view of Chill, Venable and Zinder. Claims 15, 17-19, 33 and 35-37 were rejected under 35 U.S.C. 103(a) as being obvious over the references as applied to claim 1 above, and further in view of Perlberg et al. Claims 45 and 46 were rejected under 35 U.S.C. 103(a) as being obvious over the references as applied to claim 22 above, and further in view of Lawson and Axelrod. These rejections are respectfully traversed.

Chill, Venable and Zinder are cited for disclosing notched or roughened surfaces to enhance retention. Perlberg et al. is cited for disclosing providing chewable products with colorants, nutritional supplements and/or drugs. Lawson and Axelrod are cited for disclosing sterilizing and/or drying foods.

At the outset, it is apparent that the shortcomings of the primary Markham '061 reference are necessarily inherent in the further joint consideration of Markham '061 in view of the additional secondary references.

The rejection above based on Markham '061 has already been addressed and is reiterated herein. The addition of the secondary references does not provide the requisite teaching or suggestion to overcome the shortcomings of the primary Markham '061 reference. It is respectfully submitted that even if one were to combine these references, and it is respectfully submitted that one would not be guided to do so, one would still not arrive at the invention of the present claims. Such a combination would still be lacking the disclosure of a fully consumable pet chew as claimed herein. Thus, even when considered in combination, it is apparent that the combination of any one or all of Chill, Venable, Zinder, Perlberg, Lawson and Axelrod with Markham would not provide

the requisite teaching or suggestion to one skilled in the art required to produce applicant's fully-consumable pet chew. Markham '061 does not teach or suggest a fully consumable chew and nothing in the secondary references can overcome such a defect.

Therefore, it is respectfully submitted that Markham '061, Markham '053, McClung, Mauldin, Schaefer, Chill, Venable, Zinder, Perlberg, Lawson and Axelrod, whether taken individually or in combination with themselves and the other patents of record, including Markham '061, do not disclose or suggest the invention as claimed. Accordingly, reconsideration and withdrawal of the rejections is respectfully requested.

Furthermore, the patentability of the subject matter of dependent claims necessarily must hinge upon the patentability of the independent claim from which it depends. As independent claims 1 and 22 are believed to be directed to a novel fully-consumable chew, it is also believed that dependent claims 2-21 and 23-46 are also novel and non-obvious. Accordingly, reconsideration and withdrawal of the present rejections are respectfully requested.

#### Conclusion

None of the references taken either singularly or in combination show or suggest a fully-consumable chew as taught by applicants.

Accordingly, reconsideration and withdrawal of the rejections is respectfully requested.

In view of the foregoing Amendments to the claims, and further in view of applicants' distinctions and the remarks thereof, it is respectfully submitted that this case is in condition for allowance. Favorable action on the merits, including entry of all requested amendments and allowance of all claims is respectfully solicited.

Respectfully submitted,

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